

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

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NAPOLEON GRAY,

*Plaintiff,*

v.

UNKNOWN DEFENDANT,

*Defendant.*

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CIVIL ACTION NO.  
5:20-cv-00242-TES-CHW

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ORDER

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Plaintiff Napoleon Gray, a prisoner in Rutledge State Prison in Columbus, Georgia, filed a handwritten document asserting claims under 42 U.S.C. § 1983. [Doc. 1]. Plaintiff did not, however, use the required § 1983 form. [*Id.*]. Moreover, Plaintiff did not either pay the Court's \$400.00 filing fee or move for leave to proceed *in forma pauperis*. Thus, the United States Magistrate Judge ordered Plaintiff to recast his complaint on the proper form and either pay the \$400.00 filing fee or file a proper and complete motion to proceed *in forma pauperis*. [Doc. 5].

The Magistrate Judge gave Plaintiff twenty-one days to file his recast complaint and either pay the filing fee or seek leave to proceed *in forma pauperis*. [*Id.*]. Additionally, the Magistrate Judge cautioned Plaintiff that his failure to fully and timely comply with that order could result in the dismissal of this action. [*Id.*]. Thereafter,

Plaintiff did not file a recast complaint, pay the filing fee, or seek leave to proceed *in forma pauperis*. Instead, Plaintiff filed two motions seeking relief unrelated to the previous order. [Doc. 7]. Thus, because Plaintiff did not file a recast complaint, pay the filing fee, or seek leave to proceed *in forma pauperis*, the Magistrate Judge deferred ruling on Plaintiff's motions pending his filing of a recast complaint and resolution of the filing fee issue. [Doc. 8].

Moreover, the Magistrate Judge ordered Plaintiff to respond and show cause to the Court why this case should not be dismissed based on his failure to file a recast complaint on the proper form and either pay the filing fee or seek leave to proceed *in forma pauperis*, as previously directed. [*Id.*]. The Magistrate Judge again gave Plaintiff twenty-one days to respond and warned Plaintiff that his failure to fully and timely respond would result in the Court dismissing this action. [*Id.*].

More than twenty-one days have passed since the Magistrate Judge entered the order to show cause, and Plaintiff has not filed any response to that order. Thus, because Plaintiff has failed to comply with the previous orders or to otherwise prosecute his case, the Court now **DISMISSES** the complaint **WITHOUT PREJUDICE**. See Fed. R. Civ. P. 41(b); *Brown v Tallahassee Police Dep't*, 205 F. App'x 802, 802 (11th Cir. 2006) (per curiam) ("The court may dismiss an action *sua sponte* under Rule 41(b) for failure to prosecute or failure to obey a court order.") (citing Fed. R. Civ. P. 41(b) and *Lopez v. Aransas Cty. Indep. Sch. Dist.*, 570 F.2d 541, 544 (5th Cir. 1978)).

**SO ORDERED**, this 20th day of October, 2020.

S/ Tilman E. Self, III

**TILMAN E. SELF, III, JUDGE**

**UNITED STATES DISTRICT COURT**